



Crl.O.P.No.23608 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.23608 of 2021 and
CrI.M.P.No.12981 of 2021

Sathish Kumar

...Petitioner

Vs.

1. State Rep. By
the Inspector of Police,
Mambalam Police Station,
Chennai.
(Cr.No.700 of 2019)

2. Siva Arul Durai

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.3974 of 2021 on the file of the learned 17th Metropolitan Magistrate, Saidapet and quash the same.

For Petitioner : Mr.N.R.Elango, for
Mr.A.S.Aswin Prasanna

For 1st Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

For 2nd Respondent : Mr.K.Prabakar



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ORDER

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This Criminal Original Petition is filed to quash the proceedings in C.C.No.3974 of 2021 on the file of the learned 17th Metropolitan Magistrate, Saidapet.

2. The petitioner is the 3rd accused. On the complaint given by the 2nd respondent, a case has been registered in Crime No.700 of 2019 for the offences under Sections 420, 294 (b), 384, 506 (i) and 34 of I.P.C., After investigation, the charge sheet has been filed in C.C.No.3974 of 2021 for the offences under Sections 420, 294 (b), 384 and 506 (i) r/w Section 34 of I.P.C.,

3. The case of the prosecution is that on 11.11.2019 at 7.00 pm, three people came to the house of the 2nd respondent and demanded money by threatening him. Earlier on 03.11.2019, the first accused came to the Jewellery shop of the 2nd respondent to buy jewels in exchange of some of his old jewels. After purchase, he went to the toilet and brought back the jewels purchased by him with some paste on it and shouted that the jewels



purchased are imperfect and in that regard he wanted to meet the defacto complainant. On seeing the defacto complainant, the first accused along with the 2nd accused threatened him that he would inform the issue to the press and media and demanded money. They have taken a sum of Rs.15lakhs kept in the owner's cabin by force and left the place in Maruthi Suzuki Swift Car. Again the accused came to the shop on 04.11.2019 by demanding more money. On 11.11.2019 at about 7 pm, the accused A4, A5 and A6 came to the shop by stating that they are from Press Club of India and demanded more money. It is alleged that A1 had connivance with A3 and A3 suggested to extract more money and thus sent A4 to A6 to the defacto complainant's shop. While A1 and A3 had taken money, A2 got his share of Rs.2 lakhs.

4. The learned counsel for the petitioner would submit that as far as the 3rd accused is concerned, he does not have any overt act in the occurrence and he was not even identified by any one. There is no material available on records as against the petitioner to subject him under trial.



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5. The learned Additional Public Prosecutor would submit that only on the basis of the statements given by other witnesses, he is also been implicated as the accused in this case. From the statement of the defacto complainant, it is seen that he had never met the petitioner/A3 during the occurrence and that he has not stated any thing about the petitioner. The defacto complainant could not even named the persons entered on the alleged date of occurrence. However, he had identified the petitioner 3rd accused after they have been arrested. The defacto complainant had stated that he came to understand from the respondent that the 3rd accused had acted behind the occurrence. The Tea Master of the bunk shop situated opposite to the place of occurrence, has stated that on the date of occurrence the petitioner dropped some persons into the shop of the defacto complainant and left the shop. After leaving the said persons, the petitioner was not there. Apart from the above statement, no other material is available the record to incriminate the petitioner in this case.



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6. The learned counsel for the petitioner would submit that the petitioner is an advocate who was engaged by the accused 1 and 2 and hence he was also implicated in this case. The 3rd accused is said to have come to the shop and dropped some persons and went away. With this statement of the witness, it cannot be concluded that the petitioner had any connivance with the other accused and threatened the 2nd respondent to extract money from him.

7. Admittedly the petitioner did not get into the shop or threatened the 2nd respondent. Even though in the confession statement of the other accused, they have stated about the 3rd accused, it is a weak piece of evidence. With these bald materials, if he is put under trial, no purpose will be served. Hence, I feel it is appropriate to quash the proceedings as against the petitioner.



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8. In the result, this Criminal Original Petition is allowed. The proceedings in C.C.No.3974 of 2021 on the file of the learned XVII Metropolitan Magistrate, Saidapet is hereby quashed as against the petitioner / 3rd accused alone. Consequently, connected miscellaneous petition is closed.

16.11.2022

vum

Index:yes/No

Speaking order / Non speaking order

To:

1. The Inspector of Police,
Mambalam Police Station,
Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

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